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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,884	06/29/2000	Xiangxin Bi	N19.12-0040	6843

7590

10/02/2002

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EXAMINER

CHANEY, CAROL DIANE

ART UNIT

PAPER NUMBER

1745

10

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/606,884

Applicant(s)

BI ET AL.

Examiner

Carol Chaney

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 22 August 2002.

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☐ Claim(s) 1,4-11,13-28 and 30-52 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) 1,4-11,14,20-28 and 30-37 is/are allowed.

6) ☒ Claim(s) 15-19,38-42 and 47-53 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 August 2002 has been entered.

Office Action Summary

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4-11, 13-28, and 30-52 are pending. Independent claims 1, 8, 15 and 20 have been amended. Claims 1, 4-11, 14, 20-28, 30-37 are allowed. Claims 15-19 and 38-42 are rejected under 35 USC 112 first paragraph; claims 38-42 are also rejected under 35 USC 112 second paragraph. Claims 47-53 are rejected under 35 USC 102(a) or (e) as anticipated by Koksang, US Patent 5,549,880.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter: Independent claims 1, 8, and 20 recite distributions of the sizes of particles of vanadium oxide used as cathode active materials. The nearest prior art of Koksang or Olsen does not suggest specific particle size distributions.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 15-19 and 38-42 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for battery with cathodes having vanadium oxide nanoparticles as an active material, does not reasonably provide enablement for batteries having nanoparticles of all metal oxides as cathode active materials. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. Because of the differences in the chemistries of various metal oxides, one of ordinary skill in the art could not extrapolate the teachings regarding vanadium oxides to all metal oxides.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 38-42 each recite the limitation "the collection of vanadium oxide particles" in the first line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

Claims 47-52 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Koksbang, US Patent 5,549,880.

Koksbang discloses secondary lithium batteries comprising a lithiated vanadium oxide cathode active material, a lithium metal anode, and either a polymer electrolyte separator or a solid electrolyte separator. (Note column 5, line 60-column 6, line 3 and column 6, lines 12-35.) The vanadium oxide particles are "in the form of a fine powder having a surprisingly small particle size on the order of 0.1 to 5 microns." (Note column 2, lines 58-61.) The 100 to 5000 nm particle sizes disclosed by Koksbang are interpreted as a range average particle sizes. Thus, the sizes of vanadium oxide particles disclosed by Koksbang encompass those recited by the applicants. Polyethylene oxide, acrylate polymers and carbon are used in the cathode composition. (Note column 6, lines 25-35.)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol Chaney whose telephone number is (703) 305-3777. The examiner can normally be reached on Mon - Fri 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 703-308-2383. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Carol Chaney
Primary Examiner
Art Unit 1745

cc
September 28, 2002